

## 48A C.J.S. Judges § 114

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### V. Discipline, Suspension, or Removal

#### C. Grounds

## § 114. Violation of standards or guidelines

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges](#)  11(4)

**Cause for judicial discipline is found in the standards and guidelines contained in canons of judicial ethics and similar compilations.**

Cause for judicial discipline is found in the standards and guidelines contained in canons of judicial ethics and similar compilations<sup>1</sup> in addition to the general moral and ethical standards expected of judicial officers in the community.<sup>2</sup> A judge may be subject to discipline for the repetitive violation of enumerated standards.<sup>3</sup> Violation of canons set forth in codes of judicial conduct which is sufficiently serious as wrongful conduct may, without more, warrant discipline.<sup>4</sup> Thus, discipline is warranted on particular grounds, such as a judge's misuse of the authority of his or her judicial office;<sup>5</sup> acceptance of gifts;<sup>6</sup> running for public office without resigning;<sup>7</sup> personal solicitation of campaign contributions;<sup>8</sup> ex parte communication with an attorney,<sup>9</sup> a juror,<sup>10</sup> or a party;<sup>11</sup> ex parte communication with a judge relating to matter pending before that judge;<sup>12</sup> making rude and discourteous remarks to parties or attorneys during judicial proceedings;<sup>13</sup> the use of vulgarity;<sup>14</sup> or the disparagement or attacking of other members of the judicial system.<sup>15</sup> Under some authority, a violation of a provision of canons of judicial ethics is, per se, sufficient to warrant discipline.<sup>16</sup>

Not all violations of judicial canons rise to the level warranting discipline<sup>17</sup> as in the case where a violation is technical<sup>18</sup> or inadvertent.<sup>19</sup>

### CUMULATIVE SUPPLEMENT

## Cases:

District court judge's warning to his long-time friend to stay away from a drug dealer, an individual the judge was familiar with, after learning the individual was the subject of search warrant to be conducted as part of a federally controlled investigation of drug trafficking, violated Code of Judicial Conduct rule prohibiting ex parte communications about pending matters, as well as rule prohibiting any nonpublic judicial statement that might substantially interfere with a fair trial. Colo. Code of Judicial Conduct, Rules 2.9, 2.10. [Matter of Kamada, 2020 CO 83, 476 P.3d 1146 \(Colo. 2020\)](#).

Conduct of District Court judge, who made a knowingly false statement about his residence address on his affidavit of candidacy, violated rules of Code of Judicial Conduct requiring judge to comply with the law, to act in manner that promoted public confidence in the judiciary, and to not make any false or misleading statement in political or campaign activities; judge admitted that he knew he listed false address on affidavit, and he made no effort, before or after the filing deadline, to correct his false statement. 52 M.S.A., Code of Jud.Conduct, Canons 1.1, 1.2, 4.1(A)(9). [In re Conduct of Pendleton, 870 N.W.2d 367 \(Minn. 2015\)](#).

Municipal judge violated canon prohibiting consideration of ex parte communications concerning a pending matter based on judge's contact with another judge regarding the second judge's favored parties in cases before the first judge; though first judge claimed not to have considered the second judge's communications, there was no requirement that any consideration of the communications be determinative of the first judge's decision, and recordings of the judges' conversations demonstrated that first judge understood what second judge was asking and that first judge reported back in each instance that she had complied with second judge's request. Pa. Code of Jud. Conduct, Canon 3A(4) (2014). [In re Segal, 173 A.3d 603 \(Pa. 2017\)](#).

Probate court judge's conduct of posting on social networking website comments critical of matter pending before the court, apparent endorsement of presidential candidate, and fundraising efforts for local church, in violation of judicial canons, warranted six month suspension from judicial duties. S.C. Code of Jud. Conduct, Canons 1, 2, 4(A)(1), (A)(2), (C)(3)(b)(i), 5(A)(1)(b); S.C. Judicial Disciplinary Enforcement, Rule 7(a)(1), (a)(9). [Matter of Johns, 793 S.E.2d 296 \(S.C. 2016\)](#).

## [END OF SUPPLEMENT]

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## Footnotes

- 1 La.—[In re Burgess, 85 So. 3d 604 \(La. 2012\)](#).  
Mich.—[In re Seitz, 441 Mich. 590, 495 N.W.2d 559 \(1993\)](#).  
Wis.—[Matter of Disciplinary Proceedings Against Dreyfus, 182 Wis. 2d 121, 513 N.W.2d 604 \(1994\)](#).
- 2 N.Y.—[People v. La Carrubba, 46 N.Y.2d 658, 416 N.Y.S.2d 203, 389 N.E.2d 799 \(1979\)](#).
- 3 Ind.—[In re Young, 943 N.E.2d 1276 \(Ind. 2011\)](#).  
S.C.—[Matter of Martin, 315 S.C. 370, 434 S.E.2d 262 \(1993\)](#).  
Wis.—[Matter of Disciplinary Proceedings Against Breitenbach, 167 Wis. 2d 102, 482 N.W.2d 52 \(1992\)](#).
- 4 Ark.—[Arkansas Judicial Discipline and Disability Com'n v. Proctor, 2010 Ark. 38, 360 S.W.3d 61 \(2010\)](#).  
Idaho—[Bradbury v. Idaho Judicial Council, 149 Idaho 107, 233 P.3d 38 \(2009\)](#).  
Ind.—[In re Koethe, 922 N.E.2d 613 \(Ind. 2010\)](#).

Ky.—*Alred v. Com.*, Judicial Conduct Com'n, 395 S.W.3d 417 (Ky. 2012), reh'g denied and opinion modified, (Oct. 25, 2012).

La.—*In re Burgess*, 85 So. 3d 604 (La. 2012).

Minn.—*Inquiry into Conduct of Blakely*, 772 N.W.2d 516 (Minn. 2009).

Ohio—*Disciplinary Counsel v. Russo*, 124 Ohio St. 3d 437, 2010-Ohio-605, 923 N.E.2d 144 (2010).

S.C.—*In re Bryngelson*, 403 S.C. 115, 742 S.E.2d 392 (2013).

5 Ark.—*Arkansas Judicial Discipline and Disability Com'n v. Proctor*, 2010 Ark. 38, 360 S.W.3d 61 (2010).

Miss.—*Mississippi Com'n on Judicial Performance v. Littlejohn*, 62 So. 3d 968 (Miss. 2011).

N.M.—*In re Salazar*, 2013-NMSC-007, 299 P.3d 409 (N.M. 2013).

S.C.—*Denmark Mun. Court Judge Myron V. Anderson*, 380 S.C. 70, 668 S.E.2d 413 (2008).

Va.—*Judicial Inquiry and Review Com'n of Virginia v. Peatross*, 269 Va. 428, 611 S.E.2d 392 (2005).

6 Mass.—*Matter of Bonin*, 375 Mass. 680, 378 N.E.2d 669 (1978).

7 Me.—*In re Dunleavy*, 2003 ME 124, 838 A.2d 338 (Me. 2003).

8 Or.—*In re Fadeley*, 310 Or. 548, 802 P.2d 31 (1990).

9 Alaska—*In re Cummings*, 211 P.3d 1136 (Alaska 2009).

Fla.—*In re Maxwell*, 994 So. 2d 974 (Fla. 2008).

Ill.—*Stewart v. Lathan*, 401 Ill. App. 3d 623, 341 Ill. Dec. 159, 929 N.E.2d 1238 (1st Dist. 2010).

Ind.—*In re Cotton*, 939 N.E.2d 619 (Ind. 2010).

Ohio—*Disciplinary Counsel v. Stuard*, 121 Ohio St. 3d 29, 2009-Ohio-261, 901 N.E.2d 788 (2009).

#### **A.L.R. Library**

Disciplinary action against judge for engaging in ex parte communication with attorney, party, or witness, 82 A.L.R.4th 567.

10 Pa.—*Bruckshaw v. Frankford Hosp. of City of Philadelphia*, 58 A.3d 102 (Pa. 2012).

11 N.M.—*In re Salazar*, 2013-NMSC-007, 299 P.3d 409 (N.M. 2013).

La.—*In re Boothe*, 110 So. 3d 1002 (La. 2013).

S.C.—*In re Woodham*, 386 S.C. 495, 689 S.E.2d 605 (2010).

Tex.—*Randolph v. Texaco Exploration and Production, Inc.*, 319 S.W.3d 831 (Tex. App. El Paso 2010).

12 Pa.—*Matter of Larsen*, 532 Pa. 326, 616 A.2d 529 (1992).

13 Fla.—*In re Schwartz*, 755 So. 2d 110 (Fla. 2000).

Iowa—*In re Inquiry Concerning Stigler*, 607 N.W.2d 699 (Iowa 2000).

Miss.—*Mississippi Com'n on Judicial Performance v. Smith*, 78 So. 3d 889 (Miss. 2011).

- Ohio—Disciplinary Counsel v. Campbell, 126 Ohio St. 3d 150, 2010-Ohio-3265, 931 N.E.2d 558 (2010).
- S.D.—In re Fuller, 2011 SD 22, 798 N.W.2d 408 (S.D. 2011).
- Tex.—Gaal v. State, 332 S.W.3d 448 (Tex. Crim. App. 2011).
- 14 Ind.—In re Scheibenberger, 899 N.E.2d 649 (Ind. 2009).
- Md.—In re Lamdin, 404 Md. 631, 948 A.2d 54 (2008).
- Or.—In re Barnack, 353 Or. 205, 299 P.3d 525 (2013).
- 15 Fla.—In re Allen, 998 So. 2d 557 (Fla. 2008).
- Md.—In re Lamdin, 404 Md. 631, 948 A.2d 54 (2008).
- 16 Mo.—Matter of Buford, 577 S.W.2d 809 (Mo. 1979).
- 17 Ark.—Arkansas Judicial Discipline and Disciplinary Com'n v. Simes, 2011 Ark. 193, 381 S.W.3d 764 (2011).
- Fla.—Nudel v. Flagstar Bank, FSB, 52 So. 3d 692 (Fla. 4th DCA 2010).
- Kan.—State v. Crawford, 46 Kan. App. 2d 401, 262 P.3d 1070 (2011), review granted, (May 21, 2012).
- Utah—In re Stoney, 2012 UT 64, 289 P.3d 497 (Utah 2012).
- 18 La.—In re Aucoin, 767 So. 2d 30 (La. 2000).
- W. Va.—Matter of Verbage, 200 W. Va. 504, 490 S.E.2d 323 (1997).
- 19 Ohio—Ohio State Bar Assn. v. Shattuck, 85 Ohio St. 3d 334, 1999-Ohio-271, 708 N.E.2d 199 (1999).

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